

**REMARKS**

Claims 1-14 are pending in this application. By this Amendment claims 1, 2, 4 and 5 are amended and new claims 7-14 are added. Various amendments are made for clarity and are unrelated to issues of patentability.

The Office Action rejects claims 1-6 under 35 U.S.C. §102(e) over U.S. Patent 7,099,629 to Bender. The rejection is respectfully traversed with respect to the pending claims.

Independent claim 1 recites detecting a channel status according to a pilot signal received from a base station, and calculating a delay time, the delay time equaling a time interval between reception of a pilot signal and reception of a data signal. Independent claim 1 also recites determining a target forward data rate based on the calculated delay time and the channel status, and transmitting the determined target forward data rate to the base station.

Bender does not teach or suggest at least these features of independent claim 1. More specifically, Bender does not teach or suggest detecting a channel status according to a pilot signal received from a base station. The Office Action cites Bender's col. 2, lines 23-45 and col. 3, lines 17-39. However, the cited sections merely disclose that an access terminal may transmit pilot signals. This does not suggest detecting a channel status according to a pilot signal received from a base station.

Bender also does not teach or suggest calculating a delay time, the delay time equaling a time interval between reception of a pilot signal and reception of a data signal. The Office

Action cites Bender's Fig. 5 and col. 8, lines 44-col. 9, line 15 for these features. However, Bender uses fast access channels that are staggered in time using a fixed offset. This does not teach or suggest calculating a delay time.

Furthermore, Bender does not teach or suggest determining a target forward data rate based on the calculated delay time and the channel status, as recited in independent claim 1. The Office action cites col. 9, line 45-col. 10, line 9 for these features. As discussed above, Bender has no suggestion for calculating a delay time. That is, Bender discloses sending a fast access probe in order to determine whether the target modem pool transceiver supports fast access probe transmission. This does not teach or suggest determining a target forward data rate based on the calculated delay time and the channel status.

Even further, Bender does not teach or suggest transmitting the determined target forward data rate to the base station, as recited in independent claim 1. The Office Action cites Bender's col. 10, lines 10-33 and col. 1, lines 52-60. However, Bender discloses the access terminal sending DRC signals requesting a data rate at which signals may be received over the forward rate-controlled common channel. This does not teach or suggest transmitting the determined target forward data rate to the base station.

For at least the reasons set forth above, Bender does not teach or suggest all the features of independent claim 1. Thus, independent claim 1 defines patentable subject matter.

Independent claim 2 recites receiving a pilot signal from a base station, and detecting a channel status by measuring a power level of the received pilot signal. Independent claim 2 also recites calculating a delay time, the delay time equaling a time indicative of a pilot signal and reception of a data signal, determining a target forward data rate based on an offset value corresponding to the delay time, and transmitting the determined target forward data rate to the base station.

For at least similar reasons as set forth above, Bender does not teach or suggest at least these features of independent claim 2. For example, Bender does not teach or suggest receiving a pilot signal from a base station. Bender further does not teach or suggest detecting a channel status by measuring a power level of the received pilot signal. Rather, Bender merely states that an access terminal may transmit pilot signals. See col. 2, lines 23-45.

Bender also does not teach or suggest calculating a delay time, the delay time equaling a time indicative of a pilot signal and reception of a data signal, determining a target forward data rate based on an offset value corresponding to the delay time, and transmitting the determined target forward data rate to the base station, as recited in independent claim 2.

For at least the reasons set forth above, Bender does not teach or suggest all the features of independent claim 2. Thus, independent claim 2 defines patentable subject matter.

Independent claim 5 recites receiving a pilot signal from a base station, detecting a channel status by measuring a power level of the received pilot signal, calculating a delay time

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according to a data rate control length, determining a target forward data rate based on channel status and the calculated delay time, and transmitting the determined target forward data rate to the base station.

For at least similar reasons as set forth above, Bender does not teach or suggest all the features of independent claim 5. Additionally, Bender does not teach or suggest calculating a delay time according to a data rate control length. Thus, independent claim 5 defines patentable subject matter.

Accordingly, each of independent claims 1, 2 and 5 defines patentable subject matter. Each of the dependent claims depends from one of the independent claims and therefore defines patentable subject matter at least for this reason. In addition, the dependent claims recite features that further and independently distinguish over the applied references.

### **CONCLUSION**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-14 are earnestly solicited. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

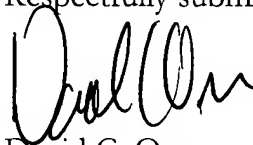
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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,



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**Date: May 23, 2007**

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